No. 418.

In the Supreme Court of the United States

OCTOBER TERM, 1920.

THE G. S. WILLARD COMPANY, HENRY S. NARTEN, PERRY F. NARTEN, AND W. A. DUFF,
Appellants,

vs.

A. MITCHELL PALMER, AS ATTORNEY GENERAL OF THE UNITED STATES, AND EDWIN S. WERTZ, AS UNITED STATES DISTRICT ATTORNEY FOR THE NORTHERN DISTRICT OF OHIO,
Appellees.

MOTION BY THE APPELLANTS TO ADVANCE.

DAY, DAY & WILKIN,
CALFEE, FOGG & WHITE,
Solicitors for Appellants.

WILLIAM L. DAY,
JOSEPH G. FOGG,
Of Counsel.

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Comes now counsel for the appellants, and respectfully move the advancement of the above entitled cause for early hearing during the October, 1920, term of this Court.

The appellants, on the 4th day of June, 1920, filed their bill of complaint against the appellees in the United States District Court for the Northern District of Ohio, Eastern Division, asking for an injunction on the grounds that they were threatened with prosecution by the defendants under the provisions of Section 4 of the Lever Law as amended, that the threatened prosecutions would practically destroy their business, and that the provisions of the law in question were unconstitutional and void.

The sections of law referred to were Section 4 of the Act of August 10, 1917, C. 53 (40 Stat. 277), commonly known as the Lever Act as amended by the Act of October 22, 1919, Title I, Section 2 (41 Stat. 298) declaring it unlawful for any person "to make any un-

just or unreasonable rate or charge in handling or dealing with any necessaries," and authorizing fine or imprisonment, or both, for violation of its terms.

The District Court refused the application for a temporary injunction and sustained a motion to dismiss filed on behalf of the defendants below, whereupon the case was appealed to this Court and application made to Mr. Justice Pitney, in vacation, for a stay, which was refused.

Many Federal Courts have upheld the constitutionality of said Section 4 as amended, while many courts have held the same section to be unconstitutional. In the cases wherein the section was held to be unconstitutional, the United States has appealed and has filed motions to advance. As a result of the varied holdings of the District Courts there is much uncertainty and confusion in cases under the Lever Law, to the embarrassment of both the public and the government. It is therefore important that an early hearing may be had in this case.

The Solicitor General of the United States has indicated that he concurs in this request for advancement.

WILLIAM L. DAY,
JOSEPH G. FOGG,
Solicitors for Appellants.